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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/053,441 | 01/16/2002 | Bruce M. Slesinger | GPL-1 CIPCON | 4039 |

1473 7590 10/03/2002

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EXAMINER

DELGIZZI, RONALD E

ART UNIT PAPER NUMBER

2875

DATE MAILED: 10/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/053,441

Applicant(s)

SLESINGER ET AL.

Examiner

DELGIZZI

Group Art Unit

2875

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 1/16/2002
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-29 (RENUMBERED 1-31) is/are pending in the application.
- Of the above claim(s) NONE is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-29 (RENUMBERED 1-31) is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☒ All ☐ Some* ☐ None of the:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.

☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Fig 8a (parts 92, 94, 95, 96); Fig 9 (part 104); Fig 22 (part 91). Correction is required.

Specification

2. The disclosure is objected to because of the following informalities: p 6, line 7 need commas between "...26 hooks 30 and shelf..." Recommend: --26, hooks 30, and shelf--

p 8, line 28: "...the vertical element have..." Correct agreement.

Appropriate correction is required.

3. The disclosure should be carefully reviewed to ensure that any and all other grammatical, idiomatic, and spelling or other minor errors are corrected.

Claim Objections

4. Claims 14, 21 (renumbered as 23), 23 (renumbered as 25), 29 (renumbered as 31) are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only and cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits. (Note: Applicant included two different Claims 16 and two different Claims 17; consequently, the claims have been renumbered).

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise

extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1-29 (renumbered 1-31) are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims as shown below of U.S. Patent No. 5695261. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

| Instant Application | Patent # 5,695,261 | Discussion of Differences |
|---------------------|--------------------|---|
| Claim 1 | Claim 10 | same subject matter, only worded differently: "outer member having an opening" and "a structural element having an opening"; "first support member" and "a first bracket" |
| Claim 2 | Claim 11 | same subject matter: "a second vertical member" and "a second vertical member" |
| Claim 3 | Claim 12 | same subject matter, only worded differently: "low voltage power source" and "power source" |
| Claim 4 | Claim 12 | same subject matter: "low voltage power source" |

| | | |
|--|-------------------------------------|--|
| Claim 5 | Claim 14 | same subject matter, only worded differently: "horizontal member disposed between first and second vertical members" and "horizontal member coupled between first and second vertical members" |
| Claim 12 | Claim 7 | same subject matter, only worded differently: "vertical member comprises...opening" and "vertical member, each having an opening..." |
| Claim 13 | Claim 11 | same subject matter, only worded differently: "second support member" and " "second bracket" |
| Claims 16 & 24 (renumbered 18 & 26) | Claim 1 | same subject matter, only worded differently: "outer member" and "support member" and |
| Claim 17 (renumbered 19) | Claim 4 | same subject matter: "powder coating" |
| Claim 18 (renumbered 20) | Claim 1 | same subject matter, only worded differently: "outer member is non-metallic" and "structural member having ...insulative material..." |
| Claims 6-11, 14-17, 19-23 (renumbered 21-25), 25-29 (renumbered as 27-31). | Claims 1-15 & patent specification. | same subject matter reciting nominal features well known in the art. |

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald E. DelGizzi, Mon-Fri, 0730 to 1600 EST at (703) 305-0648, or to Sandra O'Shea, Supervisory Patent Examiner, Mon-Fri, at (703) 305-4939, or to the receptionist at

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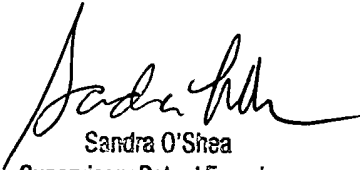
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(703) 308-0956 (phone) or at either fax # (703) 305-3431 or fax # (703) 308-7724.

rdg



Sep 30, 2002



Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800